


BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-489-C - ORDER NO. 2001-544
JUNE 7, 2001

IN RE: Application of T-NETIX Internet Services,)	ORDER
Inc. for a Certificate of Public Convenience)	GRANTING
and Necessity to Operate as a Reseller of)	CERTIFICATE FOR
Interexchange Telecommunications Services)	LONG DISTANCE
within the State of South Carolina.)	AUTHORITY



This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of T-NETIX Internet Services, Inc. ("T-NETIX" or "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications within the State of South Carolina. In addition, the Company requests a waiver of the Commission's regulation which requires books and records to be maintained within the State of South Carolina. The Company's Application was filed pursuant to Chapter 9 of Title 58 of the South Carolina Code Annotated, and the Rules and Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed T-NETIX to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of T-NETIX's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on March 8, 2001, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Scott Elliott, Esquire, represented T-NETIX. Florence P. Belser, Deputy General Counsel represented the Commission Staff. Nancy K. Lee testified on behalf of T-NETIX. Barbara J. Crawford and James M. McDaniel testified on behalf of the Commission Staff.

Nancy K. Lee, Vice President of Regulatory and Billing Services of T-NETIX, Inc. and corporate secretary of T-NETIX, appeared and testified in support of the Application. T-NETIX is a corporation incorporated in the State of Colorado and has received authority from the South Carolina Secretary of State to operate as a foreign corporation in the State of South Carolina. T-NETIX is a wholly owned subsidiary of T-NETIX, Inc.

T-NETIX is a reseller of interexchange telecommunications services and seeks authority to operate as a reseller of intraLATA and interLATA intrastate telecommunications services within South Carolina. T-NETIX intends to engage in "switchless" resale and has no plans at this time to construct any telecommunications transmission facilities of its own. T-NETIX will arrange for the traffic of underlying subscribers to be routed directly over the networks of T-NETIX's network providers. T-NETIX utilizes MCI WorldCom as its underlying carrier. T-NETIX desires to offer a full array of telecommunications services, including direct-dialed services such as (1+) service, flat rate service, 800 inbound service, travel cards, and prepaid calling cards.

Ms. Lee offered testimony regarding the Company's technical, financial, and managerial ability to provide telecommunications services in South Carolina. Ms. Lee stated that T-NETIX's

personnel represent a broad spectrum of business and technical disciplines, possessing many years of individual and aggregate telecommunications experience. The record reveals the experience of T-NETIX's management team. Thomas E. Larkin, President and CEO, has eighteen years of telecommunications experience in wireless, satellite, Internet and Interconnect. Scott Spiek, Chief Technology Officer, has over fourteen years of design, field, construction, engineering management, and business management experience. Jack Wholey, Executive Vice President of Sales & Marketing, has over twenty-seven years in the telecommunications industry and has worked for Ameritech, AT&T, and NYNEX. Richard Cree, Executive Vice President of Business Development & Intellectual Property of T-NETIX, Inc. (the parent company of T-NETIX) possesses over twenty years experience in the telecommunications industry. Ms. Lee is a Certified Public Accountant and has over ten years experience in the telecommunications industry having been a founder of Gateway Technologies. Ms. Lee remained at Gateway until Gateway merged with T-NETIX, Inc. in 1999.

Regarding the Company's technical ability to provide telecommunications services in South Carolina, the testimony reveals T-NETIX will only utilize carriers properly certified by the Commission. Further, T-NETIX is currently operating and providing service in seven states. As a reseller of interexchange service, T-NETIX relies on underlying carrier for technical assistance. T-NETIX is authorized to provide its services in over forty states. Ms. Lee explained that T-NETIX has experience in the telecommunications industry resulting from a merger with Gateway Technologies, which was an operator service provider. Ms. Lee explained the Company's customer service operations and stated that the company has personnel on call to respond to emergencies and service complaints received outside normal business hours.

With regard to T-NETIX's financial ability to provide its services in South Carolina, Ms. Lee stated that T-NETIX has thus far relied in large measure upon the resources of its parent company. As far as changes since the financial statements submitted with the application, Ms. Lee reported that T-NETIX, Inc., the parent company, showed a \$1.5 million operating profit in the third quarter of 2000. Ms. Lee provided a copy of T-NETIX, Inc.'s Form 10Q to verify this operating profit. In response to an inquiry of where T-NETIX would go for an influx of capital, Ms. Lee stated that T-NETIX has access to capital through its parent company. Ms. Lee further explained that the parent company has a banking relationship with Bank One and has a line of credit that will more than accommodate the plans of T-NETIX.

Ms. Lee stated that T-NETIX agreed to make the revisions to its tariff as suggested by Mr. McDaniel. Also, T-NETIX requested a waiver of the Commission's Rules and Regulations 26 S.C. Code Ann. Regs. 103-610 (1976). Commission Regulation 103-610 requires that all records required to be kept by a telecommunications utility be kept within the State unless otherwise authorized by the Commission. T-NETIX requests that it be allowed to maintain its books and records at its headquarters.

Staff witness Crawford testified as to her findings of the Commission's Audit Department's review of the financial statements that were submitted with the Company's Application. Mrs. Crawford testified that she reviewed the consolidated financial statements of T-NETIX, Inc., the parent company of T-NETIX, dated December 31, 1998, December 31, 1999, and June 30, 2000. The audited consolidated financials dated December 31, 1999, revealed a current ratio of .70 and that cash made up less than 1% of the parent company's total assets. Further, the December 31, 1999, financials indicated that long-term debt made up 31% of

the parent company's total liabilities and stockholders' equity and that the parent company had a loss from operations at December 31, 1999. The unaudited consolidated financial statements of the parent company dated June 30, 2000, revealed that cash still made up less than 1% of total assets. The current ratio had decreased from .70 to .40 at June 30, 2000. Retained earnings were still negative at the end of June 2000, but stockholders' equity was still positive. Further, the parent company's consolidated income statement reflected a loss from operation at the end of June 2000. Mrs. Crawford concluded that the parent company of T-NETIX is not very liquid but is in fair financial condition. She also stated that the company would need to start operating at a profit or have some other source of new capital in order to improve its working capital deficit.

Staff witness McDaniel presented testimony on the findings of the Commission's Utilities Department with respect to T-NETIX's Application for a Certificate of Public Convenience and Necessity. Mr. McDaniel testified concerning suggestions that he made to T-NETIX's proposed tariff as filed with the Application. Mr. McDaniel presented an exhibit summarizing his recommendations for T-NETIX to make to its proposed tariff. The purpose of Mr. McDaniel's recommendations to the proposed tariff was to bring the proposed tariff into compliance with the Commission's Rules and Regulations. Mr. McDaniel also recommended that T-NETIX, prior to offering prepaid calling card services, post a \$5000 bond with the Commission pursuant to Commission policy. Mr. McDaniel also stated that Staff did not oppose T-NETIX's requested waiver of Reg. 103-610, which would allow T-NETIX to maintain its books and records at its headquarters.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. T-NETIX is organized as a corporation under the laws of the State of Colorado and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. T-NETIX operates as a non facilities-based reseller of interexchange services and wishes to provide its services in South Carolina.

3. T-NETIX has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to T-NETIX to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for T-NETIX for its resale of interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate

levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

T-NETIX shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. T-NETIX shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 2000).

3. If it has not already done so by the date of issuance of this Order, T-NETIX shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations. Further, the revised tariff shall incorporate the suggested tariff changes made by the Commission Staff and to which T-NETIX agreed.

4. T-NETIX is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. T-NETIX shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If T-NETIX changes underlying carriers, it shall notify the Commission in writing.

7. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. T-NETIX shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The form the Company shall use to file this authorized utility representative information can be found at the Commission's website at www.psc.state.sc.us/forms. This form is entitled "Authorized Utility Representative Information." Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. T-NETIX shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. Annual reports and gross receipt reports are required by the Commission and necessitate the filing of intrastate

information. Therefore, T-NETIX shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings. The forms the company shall use to file annual financial information with the Commission are found at the Commission's website at www.psc.state.sc.us/forms. The form for reporting annual information for interexchange services is entitled "Annual Information on South Carolina Operations for Interexchange Companies and AOS" and consists of two pages. Be advised that the Commission's annual report for telecommunications companies requires the filing of intrastate revenues and intrastate expenses.

9. With regard to the origination and termination of toll calls within the same LATA, T-NETIX shall comply with the terms of Order No. 93-462, "Order Approving Stipulation and Agreement," in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

10. T-NETIX has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that the Company could maintain its books and records at its principal headquarters. T-NETIX is granted a waiver from the requirements of Regulation 103-610 related to keeping its books and records within the State of South Carolina. However, as otherwise provided in of 26 S.C. Code Ann. Regs. 103-610 (1976), T-NETIX shall make its records available for examination by the Commission at all reasonable hours.

11. As a condition of offering prepaid interexchange services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit

worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed in one year.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)